

Robert L. Hyde (SBN: 227183)
 bob@westcoastlitigation.com
 Joshua B. Swigart (SBN: 225557)
 josh@westcoastlitigation.com
Hyde & Swigart
 411 Camino Del Rio South, Ste. 301
 San Diego, CA 92108
 Telephone: (619) 233-7770
 Facsimile: (619) 330-4657

Douglas J. Champion, Esq. (SBN: 75381)
 doug@djchampion.com
Law Offices of Douglas J. Champion
 411 Camino Del Rio South, Suite 301
 San Diego, CA 92108
 Telephone: (619) 299-2091
 Facsimile: (619) 858-0034

Attorneys for Plaintiff

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA**

TRICIA LECKLER, ON
 BEHALF OF HERSELF AND
 ALL OTHERS SIMILARLY
 SITUATED,

PLAINTIFF,

V.

CASHCALL, INC.,

DEFENDANT.

CASE NO.: 3:07-CV-04002-SI

[CLASS ACTION]

**STIPULATION RE: (A) HEARING
 DATE AND BRIEFING SCHEDULE
 FOR PARTIES' CROSS-MOTIONS
 FOR PARTIAL SUMMARY
 JUDGMENT; AND (B) CONTINUING
 CLASS CERTIFICATION MOTION
 HEARING DATE AND RELATED
 DISCOVERY AND BRIEFING
 SCHEDULE THEREON**

HON. SUSAN ILLSTON

Proposed MSJ Hearing Date: 5/2/2008
 Proposed Continued Class Certification
 Motion Hearing Date: 9/5/08

Complaint Filed: 08/03/07
 Trial Date: Not set

1. WHEREAS, the Court has previously scheduled a hearing date for
 Plaintiff's class certification motion for May 2, 2008 at 9:00 a.m.;

- 1 2. WHEREAS, the Court has previously established the following briefing
2 schedule with respect to Plaintiff's class certification motion: (a)
3 Plaintiff's motion is due by March 28, 2008; (b) Defendant's opposition
4 brief is due by April 11, 2008; and (c) Plaintiff's reply brief is due by
5 April 18, 2008;
- 6 3. WHEREAS, on January 4, 2008, the Federal Communications
7 Commission ("FCC") published a Declaratory Ruling regarding its
8 interpretation of the phrase "prior express consent of the called party" as
9 used in the Telephone Consumer Protection Act of 1991, 47 U.S.C.
10 Section 227 ("TCPA"), specifically Section 227(b)(1)(a);
- 11 4. WHEREAS, Defendant contends that the FCC's Ruling is dispositive of
12 the TCPA claims made by Plaintiff in this action and intends to move for
13 partial summary judgment with respect to those claims;
- 14 5. WHEREAS, Plaintiff disagrees and contends that the FCC Ruling is not
15 dispositive of her TCPA claims in this action, and Plaintiff intends to
16 move for partial summary judgment with respect to those claims;
- 17 6. WHEREAS, the parties have stipulated to a set of undisputed facts for
18 purposes of filing their cross-motions for partial summary judgment;
- 19 7. WHEREAS, Plaintiff and Defendant desire to have the Court rule on
20 their cross-motions for partial summary judgment before they incur the
21 time and expense of class discovery and briefing the class certification
22 motion;
- 23 8. WHEREAS, whatever ruling is obtained on the parties' cross-motions
24 for partial summary judgment may facilitate a resolution of this case;
- 25 9. WHEREAS, the Parties desire to set their cross-motions for partial
26 summary judgment for hearing on the date originally set for the hearing
27 of the class certification motion, May 2, 2008, and propose to continue
28 that class certification motion hearing for approximately 120 days to

September 5, 2008, to allow for class discovery and briefing on the motion for class certification;

10. WHEREAS, the Parties have agreed to the following briefing schedule on the respective cross-motions for partial summary judgment: A. File and serve opening briefs on or before March 10, 2008; B. File and serve opposition briefs on or before March 31, 2008; C. File and serve reply briefs on or before April 18, 2008.

11. WHEREAS, the Parties have agreed to postpone conducting class discovery until after the Court rules on the parties' cross-motions for partial summary judgment; and

12. WHEREAS, the Parties propose a class certification motion hearing date of September 5, 2008, and based upon that date, have agreed to the following briefing schedule on Plaintiff's class certification motion:

- A. File and serve opening brief on or before July 18, 2008;
- B. File and serve opposition brief on or before August 6, 2008;
- C. File and serve reply brief on or before August 22, 2008.

THEREFORE, IT IS HEREBY STIPULATED BETWEEN THE PARTIES AND THEIR RESPECTIVE ATTORNEYS OF RECORD THAT:

1. The Parties' respective cross-motions for partial summary judgment shall be heard on May 2, 2008, at 9:00 a.m.;

2. The date for the Plaintiff's class certification motion hearing shall be continued for approximately 120 days to September 5, 2008, at 9:00 a.m.;

3. The following briefing schedule shall be followed on the parties' respective cross-motions for summary judgment:

- A. File and serve opening briefs on or before March 10, 2008;
- B. File and serve opposition briefs on or before March 31, 2008;

1 C. File and serve reply briefs on or before April 18, 2008.

2 4. Based upon a proposed September 5, 2008 hearing date for the
3 class certification motion hearing, the following briefing schedule on
4 Plaintiff's class certification motion shall be followed: A. File
5 and serve opening brief on or before July 18, 2008; B. File and serve
6 opposition brief on or before August 6, 2008; C. File and serve
7 reply brief on or before August 22, 2008.

8 Dated: February 27, 2008

HYDE & SWIGART

9 By: /s/ Joshua B. Swigart
10 **Joshua B. Swigart,**
11 Attorneys for the Plaintiff

Co-Counsel

Douglas J. Campion

12 **LAW OFFICES OF DOUGLAS J.**
13 **CAMPION**

14 Dated: February 27, 2008

FINLAYSON, AUGUSTINI & WILLIAMS,
15 **LLP**

16 By: /s/ Michael R. Williams
17 **Michael R. Williams**
18 Attorneys for Defendant

